

# Order

Michigan Supreme Court  
Lansing, Michigan

March 29, 2016

Robert P. Young, Jr.,  
Chief Justice

151402

Stephen J. Markman  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein  
Joan L. Larsen,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 151402  
COA: 324521  
Wayne CC: 08-004732-FH

PHILLIP L. HOGANS,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the March 12, 2015 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for reconsideration of the defendant's November 7, 2014 delayed application for leave to appeal under the standard applicable to direct appeals. Counsel was timely requested and appointed on direct review, but waited until only two months remained before expiration of the time for seeking leave to appeal, MCR 7.205(F), before moving to withdraw for lack of appealable issues, without following the proper procedure under *Anders v California*, 386 US 738; 87 S Ct 1396; 18 L Ed 2d 493 (1967). Counsel was permitted to withdraw with approximately one month left in the direct review period. New counsel did raise issues on the defendant's behalf; however, new counsel was not appointed until after the deadline. Accordingly, whether from ineffective assistance of counsel or delays in the trial court, the defendant was deprived of his direct appeal. See *Roe v Flores-Ortega*, 528 US 470 477; 120 S Ct 1029; 145 L Ed 2d 985 (2000); *Peguero v United States*, 526 US 23, 28; 119 S Ct 961; 143 L Ed 2d 18 (1999).

We do not retain jurisdiction.



a0321

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 29, 2016

  
Clerk